

REMARKS

This responds to the Office Action dated October 11, 2006. Claims 1, 6-9, 11-12, and 14 are amended. Claim 10 is cancelled. No claims are added. As a result, claims 1-9 and 11-21 are now pending in this patent application.

§112 Rejection of the Claims

Claims 6-9 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Applicant has amended claims 6-9 in accordance with the Examiner's suggestion to overcome this rejection, and to further clarify these claims, and not in response to any prior art rejection. Accordingly, Applicant respectfully requests withdrawal of this rejection of these claims.

Allowable Subject Matter

Applicant gratefully acknowledges the allowance of claims 16-21.

Claims 10-14 were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant has cancelled claim 10, and incorporated its language into independent claim 1, thereby rendering claim 1 and its dependent claims allowable. Applicant has amended those claims that previously depended from claim 10 to instead depend from independent claim 1 (this includes amending the dependencies of claims 11 – 12 and 14). Accordingly, all claims are now believed allowable, and Applicant respectfully requests notification of the same.

§102 Rejection of the Claims

Claim 1 was rejected under 35 U.S.C. § 102(e) for anticipation by Bakels et al. (U.S. Patent No. 6,223,082). Applicant has amended claim 1 to overcome this rejection by incorporating the language of dependent claim 10, which was indicated to be allowable. Accordingly, Applicant respectfully requests withdrawal of this rejection of claim 1.

§103 Rejection of the Claims

1. Claims 2-9 were rejected under 35 U.S.C. § 103(a) for obviousness over Bakels et al. (U.S. Patent No. 6,223,082) in view of Baumann et al. (U.S. Patent No. 5,836,987). Applicant

respectfully submits that the amendment to claim 1 has overcome this rejection and that there is no longer any *prima facie* case of obviousness for these claims. Applicant respectfully submits that the language of claims 2-9 further recite patentably distinct subject matter, however, for brevity in light of the Examiner's indication of allowability of these claims in their present form, Applicant defers but reserves the right to later present further remarks in support of the same. Applicant also defers but reserves the right to later remove the commonly-owned Baumann reference as a basis for this § 103 rejection. In sum, Applicant respectfully requests withdrawal of this rejection of claims 2-9.

2. Claim 15 was rejected under 35 U.S.C. § 103(a) for obviousness over Bakels et al. (U.S. Patent No. 6,223,082) in view of Baumann et al. (U.S. Patent No. 5,836,987) as applied to claim 1 above. Applicant respectfully submits that the amendment to claim 1 has overcome this rejection and that there is no longer any *prima facie* case of obviousness for claim 15. Applicant respectfully submits that the language of claim 15 further recites patentably distinct subject matter, however, for brevity in light of the Examiner's indication of allowability of claim 15 in its present form, Applicant defers but reserves the right to later present further remarks in support of the same. Applicant also defers but reserves the right to later remove the commonly-owned Baumann reference as a basis for this § 103 rejection. In sum, Applicant respectfully requests withdrawal of this rejection of claim 15.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or

assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 10/633,392

Filing Date: August 1, 2003

Title: CARDIAC RHYTHM MANAGEMENT SYSTEM SELECTING A-V DELAY BASED ON INTERVAL BETWEEN ATRIAL DEPOLARIZATION AND MITRAL VALVE CLOSURE

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Dkt: 279.360US2

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date February 12, 2007

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of February 2007.

Paula Jacmy

Signature